

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JEFFREY SILER,	:	
Plaintiff,	:	Case No. 3:03CV031
vs.	:	District Judge Thomas M. Rose
	:	Magistrate Judge Sharon L. Ovington
WAL-MART STORES, INC.,	:	
<i>et al.</i> ,	:	
Defendants.	:	

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**REPORT AND RECOMMENDATIONS<sup>1</sup>**

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This matter is before the Court upon Plaintiff's Motion for Voluntary Dismissal (Doc. # 57) and Defendant's Response (Doc. # 58). In September 2005, the Court stayed this case in the interests of judicial economy, to avoid prejudice to parties, and comity because of a then-ongoing case filed by Plaintiff's counsel in the Butler County, Ohio Court of Common Pleas.

Thereafter, following the issuance of a show cause order, Plaintiff moved for voluntary dismissal. Defendants do not object to the Court dismissing the case pursuant to Plaintiff's motion. (Doc. # 58 at 1). Accordingly, it is respectfully recommended that the instant case be dismissed without prejudice and that the case be terminated from the docket of this Court.

June 5, 2007

s/Sharon L. Ovington  
Sharon L. Ovington  
United States Magistrate Judge

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).